

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2007-0087
)	
City of Colton)	for
650 N. La Cadena Drive)	Administrative Civil Liability
Colton, CA 92324-2823)	
)	
<u>Attention: Mr. Daryl Parrish</u>)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a regularly scheduled meeting on November 30, 2007 and considered the allegations and conditions for settlement of the Complaint contained in Complaint No. R8-2007-0055 (revised), dated November 13, 2007. The Board finds as follows:

1. The City of Colton (the City) is a co-permittee under the National Pollutant Discharge Elimination System (NPDES) Permit No. CAS618036, Areawide Urban Storm Water Runoff Permit for San Bernardino County and the Incorporated Cities, Waste Discharge Requirements Order No. R8-2002-0012 (MS4 Permit). The current MS4 permit is the third term of this permit, having been originally adopted in 1990, and renewed in 1996 and 2002. On June 13-15, 2006, Board staff conducted an audit of the City's MS4 program as part of an assessment of the overall County-wide program. That audit was designed to examine both the effectiveness of the program, as implemented by the City, as well as the effectiveness of field program execution. Findings from this audit identified several significant violations within the City's MS4 program. Many of the violations observed during the audit were also cited in Administrative Liability Complaint (ACL) No. 98-93 issued by the Executive Officer on July 27, 1998.
2. On September 22, 2006, a Notice of Violation and evaluation report based on the audit were submitted to the City. On November 14, 2006, the City provided a response to the Notice of Violation. While the City's response addressed some of the concerns identified in the program evaluation report, there remained extensive shortcomings in the City's storm water program.
3. Water Code Section 13385(a)(2) provides that any person who violates waste discharge requirements issued pursuant to Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed \$10,000 per day of violation. The total maximum liability for the alleged violations of the MS4 Permit by the City is \$234,540,000.
4. On August 3, 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R8-2007-055 to the City proposing that the Board impose a penalty of \$167, 274 for

the violations cited (this included \$104,184 in estimated cost savings + \$50,000 suspended from ACL Complaint No.98-93 + Board staff costs of \$13,090).

5. After issuance of the original Complaint, a meeting was held between City staff and Regional Board staff, to discuss any additional information that the city may have that Regional Board staff had not considered in formulating the ACL. The City provided additional information regarding its efforts to come into full compliance with the MS4 Permit. Based on the additional information provided by the City, it was decided by Regional Board staff to suspend \$50,000 of the \$167,274 total penalty provided the City complies with a list of compliance goals (measurable goals) by the specified dates. When the City complies with the conditions of suspension as listed in the attachment to Complaint No. R8-2007-0055 (revised), the \$50,000 is considered forgiven and no longer due and payable.
6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385(c) an administrative civil liability shall be imposed on the City of Colton, in the amount of \$167,274, as proposed in Complaint No. R8-2007-055 (revised) for the violations cited, payable as set forth below.

1. The City of Colton shall pay \$117,274 to the State Water Resources Control Board by December 30, 2007.
2. The Board suspends \$50,000 of the assessed amount as per conditions stipulated in the revised Complaint.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for a review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 30, 2007.

Gerard J. Thibeault
Executive Officer